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Lieutenant Governor

**State of Utah**  
**DEPARTMENT OF NATURAL RESOURCES**  
**Division of Water Rights**

MICHAEL R. STYLER  
Executive Director

JERRY D. OLDS  
State Engineer/Division Director

**STATE OF UTAH**  
**DIVISION OF WATER RIGHTS**

DIVISION OF WATER RIGHTS,  
JERRY D. OLDS  
STATE ENGINEER,

Claimant

v.

Devils Pass Water Inc.  
c/o Leon Day  
649 East Main Street  
American Fork, UT 84003

Respondent.

**MEASURING DEVICE NOTICE**

No. SEAA 1168

RE: Devils Pass Diversion Structure: Measuring Device

Water User,

On September 19<sup>th</sup>, 2006 representatives from the State Engineers Office, Division of Water Rights, inspected the Devils Pass Diversion Structure and Measuring Device along the San Pitch River between Oak Creek and Milburn, Utah. Specifically the inspection revealed the need for an operable measuring device to monitor flows associated with this diversion. It appears that the structure lacks a "Waterman Gate" which allows flow to bypass the Cipolletti Weir measuring device. Use of a board or metal sheet to cover the hole is not considered an operable controlling works. The existing meter was inspected, however flows must also be measured over the Cipolletti weir. Section 73-5-4 of the Utah Code Annotated, 1953 as amended, states in part:

**"Every person using water in this state shall construct or install and maintain a substantial head gate, cap, valve or other controlling works, weir, flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may be used. Such controlling works or measuring device shall be of such design as the state engineer may approve and so that the same can be locked and kept set by him or his assistants... If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct such headgates, caps, valves, flumes or measuring devices after thirty days notice to do so by the state**

engineer, the state engineer may forbid the use of water until the user thereof shall comply with this requirement, ...

**Therefore, you are hereby notified that the diversion must be equipped with a functional and accurate measuring device and staff gauge. This may require the installation of an operable control gate to allow the structure to measure water. These improvements must be completed prior to April 1, 2007.**

As the water manager for the subject diversion, you are responsible for installing and maintaining suitable diversion structures and associated equipment that allows for regulation and measurement of all water through your diversion.

The diversion will be inspected for compliance. If it is not in compliance, an Order to Cease the Use of Water will be issued by the State Engineer. The diversion will be tagged, closed, and locked by the water commissioner. Removing the tag or tampering with the locked headgate will constitute a violation and enforcement proceedings will be commenced according to sections 73-2-25 and 73-2-26.

Once the final repairs are completed, please contact the Upper San Pitch Water Commissioner, **Larry Rawlings** at (435) 469-1302 or (435) 436-8522, to conduct a final inspection. Once the work is done to his/our satisfaction, he will report to the State Engineer and the subject agency action can be formally concluded. Your efforts to comply with the order are strongly encouraged to avoid enforcement actions.

Thank you for your cooperation in attending to this matter in a timely fashion. If you have any questions concerning this notice, please contact Mike Silva, Distribution Engineer by phone at 801-538-7430 or by e-mail at [MikeSilva@Utah.Gov](mailto:MikeSilva@Utah.Gov) or Kirk Forbush, Regional Engineer, by phone at 435 896-4429 or by e-mail at [KirkForbush@utah.gov](mailto:KirkForbush@utah.gov).

Dated this 3<sup>th</sup> day of October 2006

*Mike Silva*  
Mike Silva.  
Distribution Engineer

cc: Distribution File  
Kirk Forbush, Regional Engineer  
Larry Rawlins Water Commissioner: PO Box 508, Moroni UT 84646